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November 4, 2020

VIA ELECTRONIC FILING

The Honorable Jocelyn G. Boyd
Chief Clerk/Executive Director
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, SC 29210

Re: Alex Kadoshnikov v. Duke Energy Carolinas, LLC
Docket Number: 2020-218-E

Dear Ms. Boyd:

I am filing this letter on behalf of Duke Energy Carolinas, LLC (“DEC” or the “Company”) in response to the Commission’s directive issued on October 21, 2020, and the Prefile Testimony Letter and Notice of Hearing and Prefile Testimony Deadlines (the “Notice of Hearing”) issued on October 28, 2020. As explained below, the purpose of this letter is to request that the testimony filing deadlines and hearing date be held in abeyance pending resolution of the Company’s forthcoming motion for reconsideration, and also that the order of parties filing testimony be adjusted.

On October 2, 2020, DEC filed an answer and motion to dismiss the Complaint in this proceeding, which was filed with the Commission on September 3, 2020. Following the Commission’s business meeting on October 21, 2020, the Commission issued a directive denying the Company’s motion to dismiss on the basis that “[t]he meter relocation option that Mr. Kadoshnikov suggested creates a question of fact as to whether or not that the meter can be relocated as provided under the Company’s tariff.” Importantly, the directive does not appear to be a final order. Once the Commission issues a final order, the Company intends to request reconsideration of the Commission’s denial of the motion to dismiss. Accordingly, the Company respectfully requests that the testimony filing deadlines and hearing date be held in abeyance pending resolution of the Company’s forthcoming motion for reconsideration.

On October 28, 2020, the Clerk’s Office issued a Prefile Testimony Letter and a Notice of Hearing. According to the Prefile Testimony Letter, the Company and the Office of Regulatory Staff must file direct testimony by November 5, 2020; the complainant must file rebuttal testimony by November 17, 2020; surrebuttal testimony must be filed on or before November 24, 2020; and

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the hearing is scheduled for December 3, 2020. The Company respectfully requests that, if the filing deadlines are not held in abeyance, or if its motion for reconsideration is denied, the Clerk's Office set a new procedural schedule wherein the Complainant files testimony first.

Generally, the party with the burden of proof—an applicant, complainant, or petitioner—is required to file testimony first, and other parties file their direct testimony after the proponent. S.C. Code Ann. Regs. 103-842(C) in particular provides that, in Complaint proceedings such as this one, evidence would ordinarily be received from the Complainant first, followed by the Respondent and other parties. Recent Complaint proceedings involving the Company have followed this pattern. *See* Exhibit A, which contains the Prefile Testimony Letters for Docket Nos. 2020-242-E, 2019-204-E, 2018-379-E, and 2017-32-E.

The Company believes that requiring the party upon whom the burden of proof lies—in this case, the Complainant—to file his testimony first is in accord with principles of procedural fairness. *See* No. 1996-259-WS at 2, Docket No. 1996-629 (Sept. 10, 1996); *see also* S.C. Code Ann. Regs. 103-802 (“[The Commission’s regulations concerning Practice and Procedure] are intended to insure that all parties participating in proceedings before the Commission will be accorded the procedural fairness to which they are entitled by law.”); *Ross v. Med. Univ. of South Carolina*, 317 S.C. 377, 381, 453 S.E.2d 880, 883 (1994) (“[A] reviewing court has the duty to examine the procedural methods employed at an administrative hearing to ensure that a fair and impartial procedure was used.”). In this case, the Company and the Commission have only a few vague sentences as to why the Complainant believes he is entitled to relief, and the Company should be afforded an opportunity to better understand Complainant’s positions before being required to present its defense.

Thank you for your attention to this matter.

Sincerely,



Katie M. Brown

Enclosures

cc: Alex Kadoshnikov (via U.S. Mail and email w enclosure)
Alexander W. Knowles, Office of Regulatory Staff (via email w enclosure)
Carri Grube Lybarker, Department of Consumer Affairs (via email w enclosure)
Roger P. Hall, Department of Consumer Affairs (via email w enclosure)
Heather Shirley Smith, Duke Energy Carolinas, LLC (via email w enclosure)
Rebecca J. Dulin, Duke Energy Carolinas, LLC (via email w enclosure)
Frank R. Ellerbe, III, Duke Energy Carolinas, LLC (via email w enclosure)
Samuel J. Wellborn, Duke Energy Carolinas, LLC (via email w enclosure)